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Sunset and Program Review Commission Bills in the 109th Congress: Comparing H.R. 3282 and H.R. 5766

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Summary

The sunset concept provides for programs and agencies to terminate automatically on a predetermined schedule, following a systematic evaluation of past performance, unless explicitly renewed by law. In each Congress since the 105th, bills to create a federal sunset commission modeled on the sunset commission in Texas have been introduced by Representative Kevin Brady, including H.R. 3282 in the 109th Congress. President Bush supports creation of a federal sunset commission.

In May 2006 the House leadership announced plans to bring sunset legislation quickly to the House floor, along with other budget process reforms favored by the Republican Study Committee, in return for the group's backing of the FY2007 budget resolution. In the effort to craft a consensus bill, attention came to focus on H.R. 3282, and on H.R. 2470, sponsored by Representative Todd Tiarht, which would create a "Commission on the Accountability and Review of Federal Agencies (CARFA)," modeled on the Base Realignment and Closure Commission (BRAC) approach.

On July 14, 2006, Representative Tiarht introduced a revised version of H.R. 2470 as H.R. 5766, the Government Efficiency Act, to provide for the establishment of Federal Review Commissions (FRCs) which would apparently address concerns similar to those envisaged for the sunset commission in H.R. 3282. Although H.R. 5766 is often referred to as a sunset bill, this is technically inaccurate, since it contains no action-forcing mechanism. Under H.R. 3282, an agency would be abolished within one year of the Commission's review, unless the agency received statutory extension. If Congress passed a reauthorization bill, the measure would then go to the President to be signed into law. If the President instead vetoed the bill, a two-thirds majority in both chambers would be necessary to override the veto and extend the life of the program or agency.

On July 20, 2006, the Committee on Government Reform voted to report H.R. 3282 favorably, and at the same time, voted to report favorably H.R. 5766, as amended. The votes to order the bills reported were largely along party lines. Republican supporters of the bills contend that there are too many overlapping and ineffective federal programs that contribute to the growing federal deficit and that the commission would assist Congress in performing its oversight function, thereby reducing fraud, waste, and abuse. Democratic critics of the measures counter that the bills would cede too much power to the executive branch, would burden Congress with a tremendous workload with mandatory reauthorization of every agency and program, and would facilitate elimination of federal programs that provide a safety net for the most vulnerable in society.

This report examines the two bills and compares selected features, such as membership, powers of the commission, criteria for program review, public participation, and provisions for implementing commission recommendations. This report will be updated as events warrant.

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Sunset and Program Review Commission Bills in the 109th Congress: Comparing H.R. 3282 and H.R. 5766

Background

The sunset concept provides for programs and agencies to terminate automatically according to a predetermined schedule unless explicitly renewed by law. As developed in the 1970s by the organization Common Cause, a sunset law contains two requisite components: an “action-forcing” mechanism and a framework for the systematic review and evaluation of past performance. Under sunset, agencies “fade into the sunset,” unless, following oversight review, the legislature acts affirmatively to continue their existence.

For more than three decades sunset bills have been introduced in every Congress.¹ Since 1997, Representative Kevin Brady and others have supported the creation of a federal sunset commission, modeled on the sunset commission in Texas. He reintroduced his bill in the 109th Congress as H.R. 3282.²

In May 2006 the House leadership announced plans to bring sunset legislation quickly to the House floor, along with other budget process reforms favored by the Republican Study Committee (RSC), in return for RSC backing of the FY2007 budget resolution. In the effort to craft a consensus bill, attention came to focus on H.R. 3282 (Brady bill) and on H.R. 2470, sponsored by Representative Todd Tiarht, which would create a “Commission on the Accountability and Review of Federal Agencies (CARFA),” modeled on the Base Realignment and Closure Commission (BRAC) approach.³ On July 14, 2006, Representative Tiarht introduced a revised version of H.R. 2470 as H.R. 5766, the Government Efficiency Act, “to provide for the establishment of Federal Review Commissions (FRCs) to review and make recommendations on improving the operations, effectiveness, and efficiency of Federal programs and agencies, and to require a schedule for such reviews of all

¹ For historical background, see CRS Report RL31455, *Federal Sunset Proposals: Developments in the 94th to 107th Congresses*, by Virginia A. McMurtry.

² For further discussion relating to efforts to establish a federal sunset commission, see CRS Report RS22181, *A Sunset Commission for the Federal Government: Recent Developments*, by Virginia A. McMurtry.

³ For discussion of CARFA bills, see CRS Report RS21980, *Proposed Commission on the Accountability and Review of Federal Agencies (CARFA): A Brief Overview*, by Clinton T. Brass; and CRS Report RL32726, *Proposals for a Commission on the Accountability and Review of Federal Agencies (CARFA): Analysis and Issues for Congress*, by Clinton T. Brass.

Federal agencies and programs.” Although the CARFA and FRCs would address concerns similar to those envisaged for the Federal Agency Sunset Commission in H.R. 3282, H.R. 2470 and H.R. 5766 are not true sunset measures, because they lack an action-forcing mechanism whereby agencies and programs would terminate automatically absent congressional action, as would occur under H.R. 3282. Although technically inaccurate, both bills are often referred to as sunset measures, however.⁴

On July 19, 2006, the House Government Reform Committee held a hearing on H.R. 3282 and H.R. 5766.⁵ Both bills went to markup the following day, and the committee voted 15-14 to report H.R. 3282 favorably to the House. H.R. 5766, as amended, was favorably reported by a vote of 15-12. Both votes were largely along party lines. All Democrats voted against both bills. One Republican voted with the minority on each bill: Representative Chris Shays voted with the minority on H.R. 5766, and Representative Todd Platts did likewise on H.R. 3282.⁶

Republican supporters of the measures suggest that there are too many overlapping and ineffective federal programs that contribute to the growing federal deficit, that Congress lacks time for thorough oversight of all existing agencies and programs, and that the commissions would assist Congress in performing its oversight function, thereby reducing fraud, waste, and abuse. Democratic critics of the measures counter that the bills would cede too much power to the executive branch and the majority political party, would burden Congress with a tremendous workload with mandatory reauthorization of every agency and program, and would facilitate elimination of federal programs that provide a safety net for the most vulnerable in society.

Summary of H.R. 3282

H.R. 3282 would create a Federal Agency Sunset Commission (FASC) to review the efficiency of and public need for federal agencies and provide for the abolishment of agencies for which a public need does not exist. The FASC would consist of 12 members appointed by the Speaker of the House and the Senate Majority Leader. Of the six members appointed by the leaders of the respective chambers, four would be Members of Congress, with not more than two from the same political party. Within one year after its establishment, the commission would submit to Congress a schedule for the review of all federal agencies and advisory committees by the commission, at least once every 12 years, and for the abolishment

⁴ See, for example, Ralph Lindeman and Heather Rothman, “Two Sunset Bills on Track for Votes After Leadership-Led Merger Talks Fail,” *Daily Report for Executives*, July 17, 2006, p. A-21; and Steven T. Dennis, “House Panel Sends Sunset Bills to Floor,” *CQ Today*, July 20, 2006.

⁵ For hearing statements in electronic form, see [<http://reform.house.gov/GovReform/Hearings/EventSingle.aspx?EventID=47286>].

⁶ Representative Shays voted “present” on H.R. 3282, explaining that he intended to vote against the bill on the floor, but would allow it to be reported.

of each agency following the review absent congressional reauthorization. Agencies performing similar or related functions would be scheduled for review at the same time. Then the commission would commence its annual reviews, utilizing the 19 criteria specified in the bill in reviewing and evaluating the efficiency and public need for each agency.

By September 1 of each subsequent year, the commission would report to the President and Congress, and recommend whether each agency reviewed that year should be abolished or reorganized and whether functions of other agencies should be consolidated, transferred, or reorganized. The FASC would also submit draft legislation to carry out the recommendations.

Under the sunset provisions in the bill, an agency would be abolished within one year of the Commission's review, unless the agency received statutory extension. This means that following congressional approval of a reauthorization bill, the measure would have to go to the President in order to be signed into law. If the President were to veto the bill, a two-thirds majority in both chambers would be necessary to override the veto and extend the life of the program or agency. The possibility of a popular program or agency being eliminated by a President, with the support of one third of the House and Senate, arguably represents a significant transfer of power from Congress to the executive branch.

The bill would allow the deadline for abolishing an agency to be extended for an additional two years by legislation enacted by a super majority of the House of Representatives and the Senate. The commission also would report to Congress on all legislation introduced that would establish a new agency or a new program to be carried out by an existing agency.

H.R. 3282 would direct the Comptroller General of the Government Accountability Office and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, to prepare an inventory of Federal programs within each agency for the purpose of advising and assisting Congress and the commission in carrying out the requirements of the act.

Although constitutional concerns appear not to have played a major role in consideration of H.R. 3282, in prior Congresses similar sunset commission bills have been questioned on constitutional grounds. For example, an advisory opinion from the Department of Justice provided for the hearing record in 1998 suggested that unless Congress were to enact the schedule for review and termination recommended by the commission, the bill would violate separation of powers.⁷ An advisory opinion

⁷ The opinion stated, "Because this bill would allow the abolishment of a statutorily created executive agency, not through legislation passed in conformity with Article 1, but at the discretion and in accordance with a timetable imposed by a twelve-member commission composed of eight members of Congress and four [other] persons...it violates the constitutionally required separation of powers." See U.S. Congress, House Committee on Government Reform and Oversight, Subcommittee on Government Management, Information, and Technology, *H.R. 2939, Federal Sunset Act of 1998*, hearing before subcommittee, 105th Cong., 2nd sess., Sept. 14, 1998 (Washington: GPO, 1998), pp. 53-54.

from the Justice Department in 2002 referred to the same issue, as well as other possible constitutional concerns.⁸

Summary of H.R. 5766, as Amended

H.R. 5766, as approved with an amendment in the nature of a substitute and ordered reported favorably by the House Committee on Government Reform on July 20, 2006, would add a new chapter 10 to part I of Title 5 of the *U.S. Code*; part I pertains to the agencies generally and chapter 9 is titled “Executive Reorganization.” A Federal Review Commission might be established through the issuance of an executive order or enactment of a joint resolution that specifies the federal programs and agencies to be reviewed by the commission.

Each review commission would have seven members appointed by the President, four of whom would be selected after consultation with designated congressional leaders. Up to four Members of Congress might be appointed to serve as nonvoting ex officio members. The bill specifies qualifications for all commission members: each person “shall have expertise and experience in the particular programmatic area” to be reviewed by the commission. H.R. 5766 provides that, within one year of enactment, the President would submit to Congress a schedule under which additional federal review commissions would be established subsequently to review all federal agencies and programs. In developing the review schedule, the President would provide that agencies performing similar or related functions would be reviewed at or near the same time.

In its review work each commission would consider “whether the missions and goals of the programs and agencies studied by the Commission are being carried out as effectively and efficiently as possible,” the extent to which the programs and agencies duplicate or conflict with other ongoing activities, and whether reorganization of the programs and agencies “would better enable the Federal government to accomplish its missions and goals.” The committee substitute offered by the Chairman of the Government Reform Committee added agency rule making to the list of factors to be considered in the FRC’s review: whether existing rules promulgated by the agencies to carry out the programs derive from specific legislative authority, are being carried out as efficiently as possible, or duplicate or conflict with rules promulgated by other federal agencies, and whether any agency or program being reviewed in any manner violates the constitutional separation of powers.

⁸ The opinion, for example, found that giving a commission whose members were appointed by congressional leaders “the power to apply directly for enforcement of its subpoenas in the United States district courts entails executive or enforcement powers that would render the commission members ‘Officers of the United States’ (who must be appointed in conformity with the Appointments Clause) or otherwise violates the separation of powers.” Daniel J. Bryant, Assistant Attorney General, Department of Justice, letter to Rep. Dave Weldon, Chairman of the House Subcommittee on Civil Service, Census and Agency Organization, Apr. 23, 2002. Copy provided to author by subcommittee staff.

Within one year after being established, the commission would report to the President on its assessment of operations, effectiveness, and efficiency of the programs and agencies which were reviewed. The commission might also submit to the President a legislative proposal to reorganize, consolidate, abolish, expand, or transfer any of the programs and agencies just reviewed. Within 30 days after the commission reports, the President would transmit to Congress the assessment and any legislative proposal submitted by the commission, along with the President's recommendations regarding the assessment and proposal.

Expedited Congressional Procedures⁹

H.R. 5766 mandates that congressional consideration of legislation implementing a commission's recommendations occur under special "fast track" legislative procedures. Congress sometimes chooses to apply expedited legislative procedures of this type to its consideration of specific measures because the regular legislative procedures of the House and Senate are time-consuming, and do not guarantee that a given measure or type of measure will be considered in a timely fashion or at all. It is noteworthy, however, that as introduced, amended in committee, and ordered reported favorably, H.R. 5766 specifies fast track procedures only for the House of Representatives; with respect to the Senate it reads: "[Language to be provided]."

Ordinarily, Members of either house may choose to introduce legislation at any time that their chamber is in session during a two-year Congress. Under H.R. 5766, the majority leader of the House or his designee would be required to introduce the bill within five legislative days after receipt from the President of the draft implementing measure,¹⁰ but committee referral of the bill would follow regular legislative procedures.

Congress generally does not mandate that a committee act on a bill referred to it within a specified time frame. Under H.R. 5766, if a committee does not report the implementing legislation referred to it within 30 legislative days, a privileged motion would be in order, debatable for up to 20 minutes, to discharge the panels from further consideration. The scheduling of a vote on that motion would be at the discretion of the Speaker, but would have to occur within the next two legislative days. Upon report or discharge, an implementation bill would be placed on the House calendar.

Following the report or discharge of implementing legislation from committee, H.R. 5766 would make in order a privileged motion to call up the legislation on the floor. When a Member announced his intention to offer such a motion to proceed to consideration, the scheduling of a vote on that motion is at the discretion of the

⁹ The author gratefully acknowledges the assistance of CRS colleague Christopher Davis in drafting a previous version of this discussion on expedited procedures.

¹⁰ Such language requiring introduction of a proposal from the President is a common component of fast track procedures. Congressional leaders regularly comply with the rule, introducing the measure "by request," as a matter of comity between the branches.

Speaker but, again, must occur within the next two legislative days.¹¹ Once the House has chosen to take up the implementing legislation by adopting the motion to proceed, its consideration is, in a sense, “locked in.” It remains the unfinished business of the chamber until disposed of. Other business cannot intervene; it cannot be laid aside; and it must be disposed of before other matters may be taken up.

In the absence of a special rule dictating otherwise, the House ordinarily debates measures under the one-hour rule. In the Senate, debate is ordinarily unlimited except by unanimous consent, by the invocation of cloture, or by some other special procedure, such as that governing budget reconciliation. H.R. 5766 would limit House debate on the implementing bill to 10 hours. The bill also would limit Members’ ability to delay consideration of the implementing legislation by barring amendments and motions which would ordinarily be permissible under chamber rules. At the conclusion of the time specified for debate, the House would immediately vote on passage of the legislation.

Expedited procedures sometimes stipulate that if, before voting upon implementing legislation, either chamber receives implementing legislation passed by the other chamber, that second measure is not referred to committee, but is voted on instead of the first chamber’s measure.¹² H.R. 5766, however, does not specify any expedited elements after House passage. The omission of such automatic “hookup” procedures from H.R. 5766 leaves open the possibility that there will be a need to resolve differences between the House and Senate on implementing legislation, as well as the possibility that implementing legislation will die at this final stage of the legislative process.

Although fast track procedures such as those proposed in H.R. 5766 may be codified in law rather than contained in the rules of the House and Senate, they have the same effect as chamber rules and, as a result, are often called “rule making statutes.” The fact that an expedited procedure is contained in statute does not mean that another law must be passed in order to alter it. The provisions can be changed, for example, by the adoption of a special rule from the House Committee on Rules, by suspension of the rules, or by unanimous consent agreement.

It is important to point out, however, that the House of Representatives has the ability to change its rules more easily than is possible in the Senate. Changing Senate rules is virtually impossible without the widespread support of a super majority of Senators. As a result, expedited procedures of the type proposed in H.R. 5766 for the

¹¹ Under H.R. 5766, however, this motion to discharge seems to be in order only if the committee has reported the measure favorably or been discharged. In other words, whether it is intentional or not, the expedited procedures in H.R. 5766 appear to permit a committee to “kill” implementing legislation by reporting it adversely. Because in the House legislation is normally referred to every committee that has jurisdiction over a measure to the extent feasible, it is unclear under H.R. 5766 as it is currently drafted what happens if one committee of referral reports implementing legislation adversely and the others report favorably.

¹² Such provisions are often included in fast track statutes to prevent the need to resolve differences between the versions of a bill passed by the House and by the Senate.

House, if extended to the Senate, arguably would bind the Senate far more dramatically than they do the House. Simply put, they would remove the right every Senator possesses under the rules to filibuster legislation and to delay or prevent a final vote on its passage. The House may, and often does, ignore statutory expedited procedures by adopting a special rule from the House Committee on Rules laying out alternative terms of consideration.¹³ Unless strong Senate expediting provisions are added to H.R. 5766, the “fast track” procedures will arguably be of negligible value; the expediting elements as currently written apply only to the House, which does not need such provisions to work its will.

Comparison of Selected Features in H.R. 3282 and H.R. 5766

Table 1 provides an overview of selected features in the two bills. The following discussion highlights some differences and similarities between the measures.

There are no parameters in the language contained in H.R. 5766 regarding a time frame for the total duration of the reviews. The provisions suggest multiple ad hoc commissions, with each coming into existence pursuant to an executive order or joint resolution. The bill would require the President to submit to Congress a schedule for establishment of FRCs to review all federal agencies and programs. In contrast, H.R. 3282 stipulates that within a year of enactment the sunset commission would submit a review schedule to Congress, providing for each agency to be reviewed at least once every 12 years. H.R. 5766 is also silent regarding the number of commissions that might be established to accomplish the reviews. Nothing in the bill appears to preclude the simultaneous existence of more than one FRC. In contrast, H.R. 3282 envisages the sunset commission as an ongoing institutional body (with rotating membership).

With respect to membership, H.R. 3282 provides for a 12-member commission, half of whose members would be appointed by House and Senate leadership. H.R. 5766 provides for a seven-member commission appointed by the President, with advice from congressional leaders. Although both bills would likely ensure bipartisan commissions, in that both Democrats and Republicans would be appointed, the membership would not necessarily be equally balanced. The party of the President would probably enjoy at least a 5-2 majority on each of the FRCs. Under H.R. 3282, the FASC’s membership might be skewed 8-4, if the same party controlled both chambers of Congress.

As noted already, H.R. 3282 contains an action-forcing mechanism, whereas H.R. 5766 lacks such a provision. Under H.R. 3282, each agency would be abolished a year after the completion of the sunset review, unless extended by law. On the other hand, H.R. 5766 provides expedited congressional procedures for implementing

¹³ Rep. Claude D. Pepper, remarks in the House, *Congressional Record*, vol. 134, July 7, 1988, p. 17071.

the recommendations of the commission, whereas expedited procedures are absent in H.R. 3282. Some might support the inclusion of such procedures to facilitate consideration of a bill, for example, to extend the life of an agency due to terminate for another two years, as authorized in H.R. 3282, thereby allowing additional time for Congress to act on a reauthorization bill.

H.R. 3282 also would provide for compilation of a program inventory to assist the commission and Congress in the sunset review process. H.R. 5766 is silent regarding where the President might turn for assistance in devising the purviews and review schedule for FRCs, which he would be required to submit to Congress within a year after the creation of the first FRC.

Both bills would eventually sunset the commissions. Under H.R. 5766 each review commission would terminate 90 days after submission of its assessment and possible legislative proposal to the President. The sunset commission established under H.R. 3282 would remain in existence through several Congresses and Administrations, but would terminate on December 31, 2030, absent reauthorization.

Finally, one might keep in mind the possibility that H.R. 3282 and H.R. 5766 could conceivably both be enacted, either as separate bills or combined in a single measure. Chairman Davis noted at the hearing on July 19 that the two bills as written could become separate titles of a new bill for floor consideration, “thereby establishing the framework for Brady’s “long-term” commission as well as Tiahrt’s ad hoc, more focused, commissions.”¹⁴ Some, however, might view the provisions of the bills as possibly redundant, even if not incompatible. Funding to cover administrative expenses of operating two ongoing commission frameworks might arguably engender resistance. To the extent that some are concerned with the bills individually for ceding too much power from Congress to the executive branch, enactment of both bills would serve to compound the power transfer.

¹⁴ See Ralph Lindeman, “Sunset Bills Move Through Committee With Floor Vote in House Set for July 27,” *Daily Report for Executives*, July 21, 2006, p. A-22.

Table 1. Selected Features in H.R. 3282 and H.R. 5766

Feature	H.R. 5766, as amended	H.R. 3282
<i>Title of bill</i>	Government Efficiency Act of 2006	Abolishment of Obsolete Agencies and Federal Sunset Act of 2005
<i>Stated purpose(s)</i>	Provide for the establishment of Federal Review Commissions to review and make recommendations on improving the operations, effectiveness, and efficiency of federal programs and agencies, and to require a schedule for such reviews of all federal agencies and programs.	Provide for the periodic review of the efficiency and public need for federal agencies, to establish a commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which public need does not exist.
<i>Scope of coverage</i>	All federal agencies as defined in 5 U.S.C. 902(1) eligible. Actual purview of given commission determined by joint resolution or executive order creating it.	All federal agencies as defined in 5 U.S.C. 105, plus federal advisory committees. Actual coverage dependent upon enactment of review schedule.
<i>Establishment of commission</i>	A Federal Review Commission (FRC) may be established by joint resolution or executive order which would specify the specific aspects of federal programs and agencies to be reviewed.	The Federal Agency Sunset Commission (FASC) to be established, with meetings to be held at call of the Chairman.
<i>Membership</i>	Seven members to be appointed by the President, four in consultation with congressional leaders (both majority and minority) and three other members. President may appoint up to four congressional members (two from each chamber) to serve as ex officio members. All appointed to the commission to have expertise and experience in the programmatic area being reviewed by the FRC.	Twelve members to be appointed by House and Senate leadership. Speaker of the House appoints six commission members, four of whom are to be Representatives, with no more than two from the same political party. Likewise the majority leader of the Senate appoints six members, four of whom are Senators and only two of whom may be of the same political party. Outside members to have expertise in the operation and administration of government programs.
<i>Powers of commission</i>	FRCs may hold hearings, receive testimony and evidence, obtain information from federal agencies, and obtain postal and printing services and administrative support services.	FASC may hold hearings, obtain information from federal agencies, issue subpoenas for testimony and evidentiary materials. FASC may contract for services and may promulgate such rules as necessary to carry out this act.

Feature	H.R. 5766, as amended	H.R. 3282
<i>Schedule for review process</i>	Not later than one year after date of enactment, the President shall submit to Congress a schedule under which FRCs shall be established to review all agencies and programs. Agencies that perform similar or related functions to be scheduled at or near the same time.	Not later than one year after date of enactment of this act, FASC shall submit to Congress a schedule for review by the commission, at least once every 12 years (or less, if determined appropriate by Congress) and for termination or reorganization of each agency. Agencies that perform similar or related functions to be scheduled for concurrent reviews.
<i>Process/criteria for program review</i>	In reviewing programs and agencies, FRCs shall consider: (1) Whether their missions and goals are being carried out effectively and efficiently; (2) Extent to which the programs or agencies duplicate or conflict with other federal agencies, state or local government, or the private sector; (3) Whether reorganization, consolidation, abolishment, expansion, or transfer of programs or agencies would better enable the federal government to accomplish its missions and goals; (4) Whether existing rules promulgated by the agencies to carry out the programs derive from specific legislative authority, are being carried out as efficiently as possible, or duplicate or conflict with rules promulgated by other federal agencies; and (5) Whether any agency or program being reviewed in any manner violates the constitutional separation of powers.	FASC shall review the efficiency and public need for each agency as scheduled, using the following 19 criteria: (1) The effectiveness, and the efficiency of the operation of, the programs carried out by each such agency; (2) Whether the programs carried out by the agency are cost-effective; (3) Whether the agency has acted outside the scope of its original authority, and whether the original objectives of the agency have been achieved; (4) Whether less restrictive or alternative methods exist to carry out the functions of the agency; (5) The extent to which the jurisdiction of, and the programs administered by, the agency duplicate or conflict with the jurisdiction and programs of other agencies; (6) The potential benefits of consolidating

Feature	H.R. 5766, as amended	H.R. 3282
<i>Process/ criteria for reviews, cont.</i>		<p>programs with similar or duplicative federal programs elsewhere, and the potential for consolidating such programs;</p> <p>7) The number and types of beneficiaries or persons served by the agency's programs;</p> <p>(8) Whether any trends, developments, and emerging conditions are likely to affect the future nature and needs that the programs carried out by the agency are intended to address;</p> <p>(9) The extent to which the agency has complied with the provisions contained in the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285);</p> <p>(10) The promptness and effectiveness with which input from the public and from state and local governments on the efficiency and effectiveness of the agency's performance is sought;</p> <p>(11) Whether the agency has worked to enact changes intended to benefit the public as a whole rather than any special interests regulated by the agency;</p> <p>(12) Whether participation by the public as a whole, rather than solely by those it regulates, is sought by the agency in making its rules and decisions;</p> <p>(13) The extent to which the public participation in rulemaking and decisionmaking of the agency has resulted in rules and decisions compatible with the objectives of the agency;</p> <p>(14) The extent to which the agency complies with the Freedom of Information Act (5 USC 552).</p> <p>(15) Whether the agency complies with equal employment opportunity requirements;</p> <p>(16) The extent of the regulatory, privacy, and paperwork impacts of the programs carried out by the agency;</p> <p>(17) The extent to which the agency has coordinated with state and local governments in performing its functions;</p> <p>(18) The potential effects of abolishing the agency on state and local governments; and</p>

Feature	H.R. 5766, as amended	H.R. 3282
<i>Processs/ criteria for reviews, cont.</i>		(19) The extent to which changes are necessary in the authorizing statutes of the agency in order that the functions of the agency can be performed in the most efficient and effective manner.
<i>Transparency and public participation</i>	Public hearings are not required. Not clear whether FRCs would be subject to the Federal Advisory Committee Act. (Under H.R. 2470, CARFA would be explicitly exempted from FACA.)	FASC shall conduct public hearings on the abolishment of each agency reviewed, provide an opportunity for public comment, and require the agency to provide information to commission as appropriate. FASC shall consult with GAO, OMB, the Comptroller General, and the chairman and ranking minority members of the committees of Congress with oversight responsibility regarding the operation of the agency.
<i>Reporting of recommendations</i>	Not later than one year after establishment of a particular FRC, it shall submit to the President: (1) its assessment of the operations, effectiveness, and efficiency of the federal programs and agencies; and (2) a legislative proposal, if appropriate, to reorganize, consolidate, abolish, expand, or transfer programs and agencies.	FASC to submit to Congress and the President by September 1 each year a report containing: (1) analysis of the efficiency of operation and public need for each agency being reviewed that year; (2) recommendations on whether each agency should be abolished or reorganized; (3) recommendations on whether the functions of any other agencies should be consolidated, transferred, or reorganized in an agency being reviewed; and (4) recommendations for administrative and legislative action regarding reviewed agency, but not including recommendations for appropriation levels. FASC to review and report to Congress on all legislation introduced in either house of Congress that would establish a new agency or a new program to be carried out by an existing agency.
<i>Expedited procedures for congressional action</i>	Expedited procedures for consideration of reform proposals from an FRC in the House are detailed, but bill is silent regarding Senate procedures; assumably, they would be added before enactment.	Not included.

Feature	H.R. 5766, as amended	H.R. 3282
<i>Action-forcing mechanism</i>	None included.	Each agency shall be abolished not later than one year after the date the commission completes its review of the agency, unless the agency is reauthorized by the Congress. Enactment of law by super majority in each chamber may extend deadline for abolishment for two additional years.
<i>Provisions for implementation</i>	Within 30 days after receipt of the assessment and possible legislative proposal from an FRC, the President shall transmit to Congress the assessment and any accompanying proposal, along with the President's own recommendations.	Along with annual report due by September 1, FASC to submit to Congress and the President draft legislation to carry out its recommendations. The commission shall monitor implementation of laws containing provisions that incorporate prior recommendations with respect to abolishment or reorganization of agencies.
<i>Sunset provision for commission</i>	Each FRC to terminate 90 days after submission of its report to the President.	FASC to terminate on December 31, 2030, unless extension is approved by Congress and signed into law.
<i>Program inventory</i>	Not covered.	Directs the Comptroller General and the Director of the Congressional Budget Office (CBO), in cooperation with the Director of the Congressional Research Service, to prepare an inventory of Federal programs within each agency for the purpose of advising and assisting Congress and the commission in carrying out the requirements of this act. Content requirements for the inventory specified, including data to be provided by CBO.